



February 20, 2007

HOUSE BILL No. 1808

DIGEST OF HB 1808 (Updated February 19, 2007 3:36 pm - DI 75)

Citations Affected: IC 3-5; IC 3-6; IC 3-7; IC 3-11; IC 3-11.3; IC 3-11.5; IC 3-11.7; IC 3-12; IC 3-14; noncode.

Synopsis: Voting systems. Permits a voter who is qualified to vote in person to vote by absentee ballot. Removes all other qualifications for a voter to vote by absentee ballot except for a voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope. (Such a disabled voter is currently required to vote before an absentee voter board.) Requires that a voting system purchased, leased, or lease purchased after April 30, 2007 must permit a voter to examine the paper record of the voter's votes to verify the voter's votes. Requires an audit of certain elections held during a general election to hand count certain statistical samples of votes cast during the election. Requires all elections be conducted by mail beginning with elections in 2012. Provides that certain actions relating to vote fraud committed after December 31, 2011 are Class C felonies. Provides that a person convicted of any of these vote fraud crimes may be fined not more than \$125,000. Establishes the vote by mail transition advisory committee to study the transition to a vote by mail system and propose necessary legislation to accomplish the transition. Provides for the expiration of several chapters of the election code that will be obsolete under a vote by mail system.

Effective: July 1, 2007.

Pierce, Avery

January 26, 2007, read first time and referred to Committee on Elections and Apportionment.
February 19, 2007, amended, reported — Do Pass.

HB 1808—LS 7661/DI 75+



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February 20, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1808

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-5-4.5-6 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2007]: **Sec. 6. This chapter expires January 1, 2012.**
- 4 SECTION 2. IC 3-6-6-41 IS ADDED TO THE INDIANA CODE
- 5 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 6 1, 2007]: **Sec. 41. This chapter expires January 1, 2012.**
- 7 SECTION 3. IC 3-6-6.5-5 IS ADDED TO THE INDIANA CODE
- 8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 9 1, 2007]: **Sec. 5. This chapter expires January 1, 2012.**
- 10 SECTION 4. IC 3-6-7-6 IS ADDED TO THE INDIANA CODE AS
- 11 A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 12 2007]: **Sec. 6. This chapter expires January 1, 2012.**
- 13 SECTION 5. IC 3-6-8-7 IS ADDED TO THE INDIANA CODE AS
- 14 A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 15 2007]: **Sec. 7. This chapter expires January 1, 2012.**
- 16 SECTION 6. IC 3-6-10-7 IS ADDED TO THE INDIANA CODE
- 17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2007]: **Sec. 7. This chapter expires January 1, 2012.**

SECTION 7. IC 3-7-29-6 IS ADDED TO THE INDIANA CODE
AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2007]: **Sec. 6. This chapter expires January 1, 2012.**

SECTION 8. IC 3-7-42-5 IS ADDED TO THE INDIANA CODE
AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2007]: **Sec. 5. This chapter expires January 1, 2012.**

SECTION 9. IC 3-7-48-11 IS ADDED TO THE INDIANA CODE
AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2007]: **Sec. 11. This chapter expires January 1, 2012.**

SECTION 10. IC 3-11-3-36 IS ADDED TO THE INDIANA CODE
AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2007]: **Sec. 36. This chapter expires January 1, 2012.**

SECTION 11. IC 3-11-4-1 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A voter who is
otherwise qualified to vote in person is entitled to vote by absentee
ballot: ~~Except~~

(1) by mail;

(2) before an absentee voter board as ~~otherwise~~ provided in this
article; a voter voting by absentee ballot must vote

(3) in the office of the circuit court clerk (or board of elections
and registration in a county subject to IC 3-6-5.2); or

(4) at a satellite office established under IC 3-11-10-26.3.

(b) A county election board, by unanimous vote of its entire
membership, may authorize a person who is otherwise qualified to vote
in person to vote by absentee ballot if the board determines that the
person has been hospitalized or suffered an injury following the final
date and hour for applying for an absentee ballot that would prevent the
person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership,
may authorize a person who is otherwise qualified to vote in person to
vote by absentee ballot if the commission determines that an
emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the
same official absentee ballots as described in section 12 and 13 of this
chapter. Taking into consideration the amount of time remaining before
the election, the commission shall determine whether the absentee
ballots are transmitted to and from the voter by mail or personally
delivered. An absentee ballot that is personally delivered shall comply
with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 12. IC 3-11-4-2, AS AMENDED BY P.L.103-2005,
SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2007]: Sec. 2. (a) A voter who wants to vote by absentee ballot must apply to the county election board for an official absentee ballot. Except as provided in subsection (b), the voter must sign the absentee ballot application.

(b) If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board may designate an individual to sign the application on behalf of the voter. If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

(c) A person may provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:

- (1) The name of the individual.
- (2) The voter registration address of the individual.
- (3) The mailing address of the individual.
- (4) The date of birth of the individual.
- (5) The voter identification number of the individual.

(d) A person may not provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:

- (1) The address to which the absentee ballot would be mailed, if different from the voter registration address of the individual.
- (2) In a primary election, the major political party ballot requested by the individual.
- (3) In a primary or general election, the types of absentee ballots requested by the individual.
- ~~(4) The reason why the individual is entitled to vote an absentee ballot;~~

~~(A) by mail; or~~

~~(B) before an absentee voter board (other than an absentee voter board located in the office of the circuit court clerk or a satellite office);~~

~~in accordance with IC 3-11-4-18; IC 3-11-10-24; or IC 3-11-10-25.~~

(e) If the county election board determines that an absentee ballot application does not comply with subsection (d), the board shall deny the application under section 17.5 of this chapter.

(f) A person who assists an individual in completing any information described in subsection (d) on an absentee ballot application shall state under the penalties for perjury the following

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information on the application:

(1) The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person providing the assistance.

(2) The date this assistance was provided.

(3) That the person providing the assistance has complied with Indiana laws governing the submission of absentee ballot applications.

(4) That the person has no knowledge or reason to believe that the individual submitting the application:

(A) is ineligible to vote or to cast an absentee ballot; or

(B) did not properly complete and sign the application.

(g) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company. A person who receives a completed absentee ballot application from the individual who has applied for the absentee ballot shall file the application with the appropriate county election board not later than:

(1) noon seven (7) days after the person receives the application; or

(2) the deadline set by Indiana law for filing the application with the board;

whichever occurs first.

(h) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company. A person filing an absentee ballot application, other than the person's own absentee ballot application, must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

(1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person submitting the application.

(2) A statement that the person filing the affidavit has complied with Indiana laws governing the submission of absentee ballot applications.

(3) A statement that the person has no knowledge or reason to believe that the individual whose application is to be filed:

(A) is ineligible to vote or to cast an absentee ballot; or

(B) did not properly complete and sign the application.

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(4) A statement that the person is executing the affidavit under the penalties of perjury.

(5) A statement setting forth the penalties for perjury.

(i) The county election board shall record the date and time of the filing of the affidavit.

SECTION 13. IC 3-11-4-18, AS AMENDED BY P.L.164-2006, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) ~~If a voter satisfies any of the qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail;~~ The county election board shall, at the request of ~~the~~ a voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(b) If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) Except as provided in section 18.5 of this chapter, the ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) Except as provided in section 18.5 of this chapter, the ballot described in subsection (d):

(1) must be mailed:

- (A) on the day of the receipt of the voter's application; or
- (B) not more than five (5) days after the latest date for delivery of the ballots under section 13(b) of this chapter applicable to that election;

whichever is later; and

- (2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit

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court clerk or the clerk's authorized deputy.

(f) As required by 42 U.S.C. 15481, an election board shall establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple votes for a single office.

(g) As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 14. IC 3-11-4-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 23. This chapter expires January 1, 2012.**

SECTION 15. IC 3-11-6-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15. This chapter expires January 1, 2012.**

SECTION 16. IC 3-11-6.5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. This chapter expires January 1, 2012.**

SECTION 17. IC 3-11-7-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20. This chapter expires January 1, 2012.**

SECTION 18. IC 3-11-7.5-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 29. This chapter expires January 1, 2012.**

SECTION 19. IC 3-11-8-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 34. This chapter expires January 1, 2012.**

SECTION 20. IC 3-11-10-24, AS AMENDED BY P.L.103-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) Except as provided in subsection (b), a voter ~~who satisfies any of the following~~ is entitled to vote by mail.

(1) The voter has a specific, reasonable expectation of being absent from the county on election day during the entire twelve (12) hours that the polls are open.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

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(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence; to a health care facility; or to a hospital because of an illness or injury during the entire twelve (12) hours that the polls are open.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury during the entire twelve (12) hours that the polls are open.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(9) The voter is prevented from voting due to observance of a religious discipline or religious holiday during the entire twelve (12) hours that the polls are open.

(10) The voter is an address confidentiality program participant (as defined in IC 5-26.5-1-6).

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose.

The voter shall:

(1) deposit the sealed envelope in the United States mail for delivery to the county election board; or

(2) authorize a member of the voter's household or the individual designated as the voter's attorney in fact to:

(A) deposit the sealed envelope in the United States mail; or

(B) deliver the sealed envelope in person to the county election board.

(d) If a member of the voter's household or the voter's attorney in fact delivers the sealed envelope containing a voter's absentee ballot to the county election board, the individual delivering the ballot shall complete an affidavit in a form prescribed by the commission. The

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affidavit must contain the following information:

(1) The name and residence address of the voter whose absentee ballot is being delivered.

(2) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual delivering the absentee ballot.

(3) A statement indicating whether the individual delivering the absentee ballot is a member of the voter's household or is the attorney in fact for the voter. If the individual is the attorney in fact for the voter, the individual must attach a copy of the power of attorney for the voter, unless a copy of this document has already been filed with the county election board.

(4) The date and location at which the absentee ballot was delivered by the voter to the individual delivering the ballot to the county election board.

(5) A statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots.

(6) A statement that the individual delivering the absentee ballot is executing the affidavit under the penalties of perjury.

(7) A statement setting forth the penalties for perjury.

(e) The county election board shall record the date and time that the affidavit under subsection (d) was filed with the board.

(f) After a voter has mailed or delivered an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 21. IC 3-11-10-40 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 40. This chapter expires January 1, 2012.**

SECTION 22. IC 3-11-11-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20. This chapter expires January 1, 2012.**

SECTION 23. IC 3-11-13-45 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 45. This chapter expires January 1, 2012.**

SECTION 24. IC 3-11-14-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 35. This chapter expires January**

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SECTION 25. IC 3-11-14.5-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11. This chapter expires January 1, 2012.**

SECTION 26. IC 3-11-15-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 43. (a) The audit record provisions in this chapter are essential to the complete recording of election operations and reporting of the vote tally. This list of audit records must reflect all of the idiosyncrasies of a system.

(b) ~~As required by 42 U.S.C. 15481,~~ The voting system must **do the following:**

(1) Produce a permanent paper record with a manual audit capacity for the system. ~~and~~

(2) Permit the voter to examine the paper record of the voter's vote to verify the voter's votes. This subdivision applies only to a voting system purchased, leased, or lease purchased after April 30, 2007.

~~(2)~~ **(3)** Provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.

(c) The paper record produced under subsection (b) ~~must be made available as is~~ an official record for a recount or contest conducted with respect to any election in which the voting system was used.

(d) A voter may not keep the paper record the voter has examined under subsection (b)(3).

SECTION 27. IC 3-11-15-59 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 59. This chapter expires January 1, 2012.**

SECTION 28. IC 3-11-16-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. This chapter expires January 1, 2012.**

SECTION 29. IC 3-11-17-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. This chapter expires January 1, 2012.**

SECTION 30. IC 3-11.3 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

ARTICLE 11.3. CASTING AND COUNTING BALLOTS

Chapter 1. General Provisions

Sec. 1. This article applies only to elections held after December

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31, 2011.

Sec. 2. For purposes of this article, a ballot is considered "sent" to a voter if the ballot is:

- (1) sent by United States mail addressed to the voter;
- (2) transmitted by fax to a number provided by the voter; or
- (3) personally given to the voter.

Sec. 3. As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to the kind of ballot used in the county) to:

- (1) notify a voter of the effect of casting multiple votes for a single office; and
- (2) provide instructions on how to correct a ballot before the ballot is cast and counted, including the issuance of replacement ballots.

Sec. 4. The county election board shall include a copy of the Voter's Bill of Rights with ballots mailed to the voter.

Sec. 5. The individuals appointed as ballot counters under this article are entitled to a per diem established by the county executive.

Sec. 6. A ballot is considered to be cast in the precinct in which the voter who cast the ballot resides for the purpose of the following chapters:

- (1) IC 3-12-6.
- (2) IC 3-12-11.
- (3) IC 3-12-12.

Sec. 7. In accordance with 42 U.S.C. 1973ff-1(b), the election division is designated as the single office in Indiana responsible for providing information regarding ballot procedures under this article to be used by absent uniformed services voters and overseas voters who wish to vote in any jurisdiction in Indiana.

Chapter 2. Preparation of Ballots

Sec. 1. Each circuit court clerk shall:

- (1) not less than sixty (60) days before the date on which a general, primary, or municipal election is held; or
- (2) not more than three (3) days after the date on which a special election is ordered;

estimate the number of ballots that will be required in the county for the election.

Sec. 2. (a) The election division shall prepare a special ballot for use by:

- (1) absent uniformed services voters; and
- (2) overseas voters;

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1 who will be outside the United States on the day of a general
2 election.

3 (b) The ballot described in subsection (a):

4 (1) must indicate each state office to be elected by the voters
5 at the general election;

6 (2) must set forth each public question to be voted for at the
7 general election by the electorate of the entire state;

8 (3) may not state the name of any political party or candidate
9 for election;

10 (4) must permit the voter to write in the name of a political
11 party or a candidate for election to each office; and

12 (5) must include a notice stating that regular ballots will be
13 mailed to the voter by the county election board as soon as the
14 ballots are available.

15 (c) Space for write-in voting for an office is not required if there
16 are no declared write-in candidates for that office. However,
17 procedures must be implemented to permit write-in voting for
18 candidates for federal offices.

19 Sec. 3. (a) Except as provided in subsections (b) and (c), the
20 ballots that are prepared and printed under the direction of the
21 election division shall be delivered to the circuit court clerk or the
22 clerk's authorized deputy not less than forty-five (45) days before
23 a general election or twenty-nine (29) days before a special election.
24 The ballots shall be delivered in the same manner that other
25 official ballots are delivered.

26 (b) This subsection applies to the printing of ballots for a
27 general election in which the names of nominees for President and
28 Vice President of the United States are to be printed on the ballot.
29 The ballots that are prepared and printed under the direction of
30 the election division shall be delivered to the circuit court clerk not
31 later than thirty-eight (38) days before the general election.

32 (c) A ballot described by section 2(a) of this chapter shall be
33 delivered by the election division to the circuit court clerk or the
34 clerk's authorized deputy not later than the first Monday in June
35 before a general election.

36 Sec. 4. (a) All ballots other than those described in section 2 of
37 this chapter shall be prepared and printed under the direction of
38 each county election board. After completing the estimate required
39 by section 1 of this chapter and receiving all certifications from the
40 election division required under IC 3-8 or IC 3-10, the county
41 election board shall immediately provide for the preparation and
42 printing of ballots.

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(b) Except as provided in subsection (c), ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(c) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

Sec. 5. (a) Except as provided in subsection (b), the ballots that are prepared and printed under the direction of a county election board shall be delivered to the circuit court clerk (or the board acting under IC 3-6-5.2) not later than:

(1) forty-five (45) days before a general, primary, or municipal election; and

(2) thirty-two (32) days before a special election.

(b) This subsection applies to the printing of ballots for a general election in which the names of nominees for President and Vice President of the United States are to be printed on the ballot. The ballots that are prepared and printed under the direction of a county election board shall be delivered to the circuit court clerk (or the board acting under IC 3-6-5.2) not later than thirty-eight (38) days before the general election.

Sec. 6. Each package of ballots delivered to a circuit court clerk shall be plainly marked, on an appropriate attached label, with the words: "This package contains _____ (giving number of ballots) ballots.". The clerk shall securely keep all ballots in the clerk's office and shall send them to voters as provided in this article.

Chapter 3. Sending Ballots to Voters

Sec. 1. Not later than seven (7) days after the deliver of ballots under IC 3-11.3-2-5, the county election board shall mail the official ballot, postage fully prepaid, to each active voter at the address stated in the voter's voter registration record.

Sec. 2. Subject to IC 3-5-4-9, a ballot that is mailed must bear the circuit court clerk's official seal and signature or facsimile signature on the back of the ballot. Before the ballot is mailed, the two (2) appointed members of the county election board or their designated representatives shall place their initials in ink on the back of the ballot. The initials must be in the individual's ordinary handwriting or printing and without a distinguishing mark of any kind. No other initialing of the ballot is necessary.

Sec. 3. A ballot mailed under this chapter shall be enclosed in an envelope, unsealed and stamped for return to the county election board by at least first class mail. One (1) side of the envelope must

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1 bear the name, official title, and post office address of the county
 2 election board. The pre-addressed, stamped envelope shall be
 3 furnished by the county election board.

4 Sec. 4. (a) On the other side of the envelope required by section
 5 3 of this chapter an affidavit conforming to 42 U.S.C. 1973ff-1(b)
 6 must be printed, providing that the voter affirms under penalty of
 7 perjury that the following information is true:

8 (1) The name of the precinct and township (or ward and city
 9 or town).

10 (2) That the voter is:

11 (A) a resident of; or

12 (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in;
 13 the precinct.

14 (3) The voter's complete residence address, including the
 15 name of the city or town and county.

16 (4) That the voter is entitled to vote in the precinct, the type
 17 of election to be held, and the date of the election.

18 (5) That:

19 (A) the voter has personally marked the enclosed ballot or
 20 ballots in secret and has enclosed them in this envelope and
 21 sealed them without exhibiting them to any other person;

22 (B) the voter personally marked the enclosed ballot or
 23 ballots, enclosed them in this envelope, and sealed them
 24 with the assistance of an individual whose name is listed on
 25 the envelope and who affirms under penalty of perjury
 26 that the voter was not coerced or improperly influenced by
 27 the individual assisting the voter or any other person, in a
 28 manner prohibited by state or federal law, to cast the
 29 ballot for or against any candidate, political party, or
 30 public question; or

31 (C) as the properly authorized attorney in fact for the
 32 undersigned under IC 30-5-5-14, the attorney in fact
 33 affirms the voter personally marked the enclosed ballot or
 34 ballots in secret and enclosed them in this envelope and
 35 sealed them without exhibiting them to the attorney in fact
 36 or to any other person.

37 (6) The date and the voter's signature.

38 (b) If the affidavit is signed by an attorney in fact, the name of
 39 the attorney in fact must be indicated.

40 (c) A guardian or conservator of an individual may not sign an
 41 affidavit for the individual under this section unless the guardian
 42 or conservator also holds a power of attorney authorizing the

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guardian or conservator to sign the affidavit.

(d) The side of the envelope containing this affidavit must also set forth the penalties for perjury.

Sec. 5. (a) The circuit court clerk shall keep the following information in a record in the clerk's office for each ballot mailed under this chapter:

- (1) The name of the voter.
- (2) The date the ballot is sent to the voter.
- (3) The address to which the ballot is sent.
- (4) If the ballot is transmitted by fax, the fax number to which the ballot is faxed.
- (5) The date the ballot is received from the voter.
- (6) Any other information the county election board considers necessary or useful.

(b) The circuit court clerk shall keep the following information regarding absent uniformed services voters and overseas voters:

- (1) The combined total number of ballots sent by the county to absent uniformed services voters and overseas voters.
- (2) The total number of ballots returned by voters described in subdivision (1) in time to be counted.
- (3) The total number of ballots described in subdivision (1) that were counted in whole or in part.
- (4) Any other information the county election board considers necessary or useful.

Chapter 4. Casting Ballots by Voters

Sec. 1. A voter shall, except as provided in section 2 of this chapter, do the following:

- (1) Mark the ballot in the presence of no other person.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided.
- (5) Securely seal the envelope.
- (6) Make and subscribe to the affidavit prescribed by IC 3-11.3-3-4.
- (7) Do one (1) of the following:
 - (A) Mail the envelope to the county election board, with not more than one (1) ballot per envelope.
 - (B) Deliver the envelope to the county election board in person.
 - (C) Deliver the envelope to a member of the voter's

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household or a person designated as the attorney in fact for the voter under IC 30-5 for delivery to the county election board:

- (i) in person;
- (ii) by United States mail; or
- (iii) by a bonded courier company.

Sec. 2. (a) A voter permitted to transmit the voter's ballots by fax or electronic mail under IC 3-11.3-5 is not required to comply with section 1 of this chapter.

(b) The individual designated by the circuit court clerk to receive ballots transmitted by fax or electronic mail shall do the following upon receipt of a ballot transmitted by fax:

- (1) Note the receipt of the ballot in the records of the circuit court clerk as other ballots received by the circuit court clerk are noted.
- (2) Fold each ballot received from the voter separately so as to conceal the marking.
- (3) Enclose each ballot in a blank ballot envelope.
- (4) Securely seal the envelope.
- (5) Mark on the envelope: "Ballot Received by Fax or Electronic Mail".
- (6) Securely attach to the envelope the faxed affidavit received with the voter's ballots.

(c) Except as otherwise provided in this title, ballots received by fax or electronic mail shall be handled and processed as other ballots received by the circuit court clerk are handled and processed.

Chapter 5. Absent Uniformed Services Voters, Overseas Voters, and Address Confidentiality Program Participant Voters

Sec. 1. This chapter applies, notwithstanding any other provision of this title, to the following:

- (1) An absent uniformed services voter.
- (2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).
- (3) An overseas voter.

Sec. 2. A county election board shall make blank forms that a voter may use to identify the voter as a voter described in section 1 of this chapter available for such voters after November 20 preceding the election to which the form applies. A voter may notify the county election board at any time after the forms are made available that the voter is a voter described in section 1 of this chapter.

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1 **Sec. 3. If a county election board receives a notification form**
 2 **from a voter under section 2 of this chapter, the circuit court clerk**
 3 **shall mail to the voter, free of postage as provided by 39 U.S.C.**
 4 **3406, all ballots for the election immediately upon receipt of the**
 5 **ballots under this article.**

6 **Sec. 4. In accordance with 42 U.S.C. 1973ff-3, whenever a voter**
 7 **files a notice under this chapter and indicates on the notice that the**
 8 **voter:**

9 **(1) is an absent uniformed services voter or an overseas voter;**
 10 **and**

11 **(2) does not expect to be in the county on the next general**
 12 **election day following the date the notice is filed and expects**
 13 **to remain absent from the county until at least the date of the**
 14 **second general election following the date the notice is filed;**
 15 **the circuit court clerk and county election board shall process the**
 16 **notice and send ballots to the voter for both subsequent general**
 17 **elections and any municipal or special election conducted during**
 18 **that period.**

19 **Sec. 5. (a) Whenever a voter described in section 1(2) files a**
 20 **notice for a primary election ballot and indicates on the notice that**
 21 **the voter is an address confidentiality program participant, the**
 22 **notice is an adequate application for a general election ballot under**
 23 **this chapter and a ballot for a special election conducted during the**
 24 **twelve (12) months following the date of the notice. The circuit**
 25 **court clerk and county election board shall process the notice and**
 26 **send general election and special election absentee ballots to the**
 27 **voter in the same manner as other general election and special**
 28 **election ballots are sent under this article.**

29 **(b) The name, address, telephone number, and any other**
 30 **identifying information relating to a program participant in the**
 31 **address confidentiality program, as contained in a voter**
 32 **registration record, is declared confidential for purposes of**
 33 **IC 5-14-3-4(a)(1). The county voter registration office may not**
 34 **disclose for public inspection or copying a name, an address, a**
 35 **telephone number, or any other information described in this**
 36 **subsection, as contained in a voter registration record, except as**
 37 **follows:**

38 **(1) To a law enforcement agency, upon request.**

39 **(2) As directed by a court order.**

40 **Sec. 6. The county election board shall by fax (or electronic mail**
 41 **when authorized under this chapter) transmit a ballot to and**
 42 **receive a ballot from an absent uniformed services voter or an**

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1 overseas voter at the request of the voter. If the voter wants to
 2 submit ballots by fax or electronic mail, the voter must separately
 3 sign and date a statement on the cover of the fax transmission that
 4 states substantively the following: "I understand that by faxing or
 5 e-mailing my voted ballot I am voluntarily waiving my right to a
 6 secret ballot."

7 **Sec. 7.** A county election board may transmit a ballot to an
 8 absent uniformed services voter or an overseas voter by electronic
 9 mail under a program authorized and administered by the Federal
 10 Voting Assistance Program of the United States Department of
 11 Defense. A voter described by this section may transmit the voted
 12 ballot to a county election board by electronic mail in accordance
 13 with the procedures established under this program. An electronic
 14 mail message transmitting a voted ballot under this section must
 15 include an optically scanned image of the voter's signature on the
 16 statement required under section 6 of this chapter.

17 **Sec. 8. (a)** The county election board shall send confirmation to
 18 a voter described in section 6 of this chapter that the voter's ballot
 19 has been received as follows:

20 (1) If the voter provides a fax number to which a confirmation
 21 may be sent, the county election board shall send the
 22 confirmation to the voter at the fax number provided by the
 23 voter.

24 (2) If the voter provides an electronic mail address to which
 25 a confirmation may be sent, the county election board shall
 26 send the confirmation to the voter at the electronic mail
 27 address provided by the voter.

28 (3) If:

29 (A) the voter does not provide a fax number or an
 30 electronic mail address; or

31 (B) the number or address provided does not permit the
 32 board to send the confirmation not later than the end of
 33 the first business day after the board receives the voter's
 34 ballot;

35 the county election board shall send the confirmation by
 36 United States mail.

37 (b) The county election board shall send the confirmation
 38 required by this section not later than the end of the first business
 39 day after the county election board receives the voter's ballot.

40 **Sec. 9. (a)** The form required by this chapter must be made on
 41 a standard form approved under 42 U.S.C. 1973ff(b) or on the
 42 form prescribed by the commission.

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(b) A notice sent under this chapter from an:

(1) absent uniformed services voter; or

(2) address confidentiality program participant (as defined in IC 5-26.5-1-6);

must show that the voter or program participant is a resident otherwise qualified to vote in the precinct.

(c) A notice form sent under this chapter from an overseas voter must show that the overseas voter was a resident and otherwise qualified to vote in the precinct where the voter resided before leaving the United States.

Sec. 10. (a) This section applies to an overseas voter described in IC 3-5-2-34.5(3).

(b) An overseas voter who resides outside the United States and who is no longer a resident of a precinct in Indiana is only entitled to receive ballots for a federal office.

(c) A voter described in subsection (a) is considered to be a voter of the Indiana precinct where the voter registration office of the county where the person was domiciled before leaving the United States is located.

Chapter 6. Receipt of Ballots

Sec. 1. (a) A county election board must receive an absentee ballot not later than 6 p.m. on election day.

(b) A ballot received by the county election board after 6 p.m. is considered as arriving too late and may not be opened except as required by a court order.

Sec. 2. (a) During the period that ballots are being received, each county election board shall keep the ballots in cabinets, boxes, or a room upon which there are two (2) locks, one (1) for each of the appointed members of the board.

(b) Each day the ballots shall be placed in the cabinets, boxes, or room under the direction of the appointed members of the board. If an appointed member cannot be present each day, then that member shall designate someone from the member's political party to be present with the key to the lock at the time the ballots are secured.

Sec. 3. Each circuit court clerk or the clerk's agent shall visit the appropriate post office to accept delivery of absentee envelopes at the latest possible time that will permit acceptance of ballots before 6 p.m.

Chapter 7. Ballot Counters

Sec. 1. Each county election board shall appoint teams of ballot counters consisting of two (2) voters of the county, one (1) from

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each of the two (2) political parties that have appointed members on the county election board.

Sec. 2. An otherwise qualified individual is eligible to serve as a ballot counter unless any of the following apply:

(1) The individual is unable to read, write, and speak the English language.

(2) The individual has any property bet or wagered on the result of the election.

(3) The individual is a candidate to be voted for at the election except as an unopposed candidate for precinct committeeman or state convention delegate.

(4) The individual is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

Sec. 3. Not later than noon ten (10) days before voting begins under this article, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of teams of ballot counters to be appointed under this section.

Sec. 4. The county chairmen must make written recommendations for the appointments to the county election board not later than noon three (3) days before voting begins under this article. The county election board shall make the appointments as recommended.

Sec. 5. If a county chairman fails to make any recommendations, the county election board may appoint any voters of the county who comply with this section.

Chapter 8. Watchers for Political Parties, Candidates, and the Media

Sec. 1. (a) Each of the following is entitled to appoint one (1) watcher to observe the counting of ballots in the county:

(1) A political party in the county.

(2) An independent candidate.

(3) A school board candidate.

(b) This subsection applies to a public question that is submitted to the electorate. A county election board may appoint watchers if a petition requesting the appointment is filed with the board. The

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petition must be signed by:

(1) the chairman of a political action committee organized under IC 3-9 to support or oppose the approval of the public question; and

(2) at least the number of voters equal to two percent (2%) of the votes cast in the last election for secretary of state in the county.

(c) A watcher appointed under this section must be a registered voter of the county.

Sec. 2. (a) Each of the following is entitled to appoint one (1) watcher to observe the counting of ballots in the county:

(1) Each daily, weekly, semiweekly, or triweekly newspaper of general circulation in the county.

(2) Each news service operating in the county.

(3) Each radio or television station operating in the county.

(b) This subsection does not apply to an individual who is employed by a newspaper, news service, radio station, or television station as the individual's regular occupation. A notice of the name of an individual appointed to be a watcher under this section must be prepared and signed by an individual or an officer of the corporation owning the newspaper, news service, radio station, or television station. The signature must be verified.

(c) A copy of the notice required by subsection (b) must be furnished the day before election day to each of the following:

(1) The circuit court clerk.

(2) The county election board.

(3) The county chairman of each political party that is entitled to appoint a watcher this chapter.

(4) The chairman of each independent candidate's committee that is entitled to appoint a watcher under this chapter.

(d) If an individual wants to act as a watcher for a newspaper, news service, radio station, or television station in more than one (1) county in Indiana, the individual must obtain a watcher identification card from the election division. The secretary of state may adopt rules under IC 4-22-2 to implement this subsection.

(e) Watchers appointed under this section do not have a voice or vote in any proceeding of a precinct election board. The watchers may attend the election as witnesses only and are subject to the orders of the county election board.

(f) A watcher appointed under this chapter may photograph the proceedings of counting the ballots.

Sec. 3. A candidate to be voted for at an election, except as an

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unopposed candidate for precinct committeeman or state convention delegate, may not be appointed as a watcher.

Sec. 4. (a) A watcher must possess an identification card issued under this section and present the card if demanded by a member of the county election board.

(b) The county election board, county chairman, or chairman of the committee of the independent candidate for a federal or a state office:

(1) must appoint each watcher in writing; and

(2) shall issue one (1) watcher identification card for each person appointed as a watcher.

(c) The identification card must be signed by the chairman of the county election board, county chairman of the party, or chairman of the committee of the independent candidate.

(d) The identification card described in subsection (a) must clearly state the following:

(1) The status of the individual as an appointed watcher.

(2) The name of the individual serving as a watcher.

(3) The name of the person who appointed the individual as a watcher.

(4) If the individual has been appointed as a watcher by a political party, the name of the political party.

Sec. 5. (a) A watcher appointed under this chapter is entitled to do the following:

(1) Enter the location where ballots are being counted and remain there throughout the time that ballots are being counted and tabulated.

(2) Inspect the work being done by any ballot counter.

(3) Enter, leave, and reenter the location where ballots are being counted at any time.

(4) Witness the calling and recording of the votes and any other proceedings of ballot counters and other election officers in the performance of official duties.

(5) Receive a summary of the vote prepared under IC 3-12-2-15, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, providing:

(A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate;

(B) the names of all candidates at a general, municipal, or special election and the number of votes cast for each candidate; and

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(C) the vote cast for or against a public question.

(b) The county election board shall provide blank certificates for the summaries required by subsection (a)(5).

Sec. 6. A watcher appointed under section 1 of this chapter shall report any violation of the election laws that comes to the watcher's attention to the county grand jury or prosecuting attorney.

Chapter 9. General Procedures for Counting Ballots

Sec. 1. Each circuit court clerk shall keep a separate ballot record for each precinct in the county.

Sec. 2. If a county election board finds that the signature on a ballot envelope or transmitted affidavit is not genuine, the board shall write upon the ballot envelope the words "The county election board has rejected this ballot because the signature of this voter is not genuine."

Sec. 3. If a county election board unanimously finds that the signature on a ballot envelope or transmitted affidavit is genuine, the board shall enclose immediately the accepted and unopened ballot envelope in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains a ballot and must be opened only on election day under IC 3-11.3."

Sec. 4. Each circuit court clerk shall keep all accepted ballot envelopes securely in the clerk's office until the ballot envelopes are opened by ballot counters in accordance with this article.

Sec. 5. (a) Not earlier than noon on election day ballot counters appointed under this article, in the presence of the county election board shall, in a central counting location designated by the county election board, count the votes for each candidate for each office and on each public question in each precinct.

(b) The ballot counters shall, except for a ballot rejected under this article:

- (1) open the outer or carrier envelope containing a ballot envelope;
- (2) announce the voter's name; and
- (3) compare the signature in the county voter registration records with the signature upon the affidavit on the ballot envelope or transmitted affidavit.

Sec. 6. (a) If the ballot counters find that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the voter is a qualified voter of the precinct; and

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(4) in case of a primary election, if the voter has not previously voted, the voter has executed the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate;
the ballot counters shall open the envelope containing the ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The ballot counters shall then deposit the ballots in a secure envelope with the name of the precinct set forth on the outside of the envelope. After the ballot counters or the county election board has made the findings described in subsection (a) or section 7 of this chapter for all ballots of the precinct, the ballot counters shall remove all the ballots deposited in the envelope under this section for counting under this article.

Sec. 7. (a) If the ballot counters find that any of the following applies, the ballots shall be rejected:

(1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of the two (2) appointed members of the county election board or their designated representatives under IC 3-11.3-3-2.

(2) The signatures do not correspond or there is no signature.

(3) The voter is not a qualified voter in the precinct.

(4) The voter has not registered.

(5) The ballot is open or has been opened and resealed. This subdivision does not permit a ballot transmitted by fax or electronic mail under IC 3-11.3-5 to be rejected because the ballot was sealed in the ballot envelope by the individual designated by the circuit court to receive ballots transmitted by fax or electronic mail.

(6) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(7) In case of a primary election, if the voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(8) The ballot has been challenged and not supported.

(b) This subsection applies whenever a voter with a disability is unable to make a signature on a ballot security envelope that corresponds with the voter's signature in the records of the county voter registration office. The voter may request that the voter's signature or mark be attested to by any of the following:

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(1) A member of the voter's household.

(2) An individual serving as attorney in fact for the voter.

(c) An attestation under subsection (b) provides an adequate basis for the ballot counters to determine that subsection (a)(2) does not apply to the signature or mark.

(d) If the ballot counters are unable to agree on a finding described under this section or section 6 of this chapter, the county election board shall make the finding.

Sec. 8. (a) Each ballot rejected for any of the reasons prescribed by section 7 of this chapter shall, without being unfolded to disclose how the ballot is marked, be endorsed with the words: "Rejected (giving the reason or reasons for the rejection).".

(b) All rejected ballots shall be enclosed and securely sealed in an envelope on which the ballot counters shall write the words: "Rejected ballots". The ballot counters shall also identify the precinct and the date of the election on the envelope containing the rejected ballots.

(c) The rejected ballots shall be returned to the officer and in the manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election.

Sec. 9. To minimize delay, the ballot counters shall continue the count without interruption until all ballots for a precinct are canvassed and the certificates required by this article are prepared and delivered to the persons entitled to receive the certificates.

Sec. 10. During the counting of the votes:

(1) a ballot counter performing the counting;

(2) a member of the county election board; or

(3) a representative designated by the members;

may protest the counting of any ballot or any part of a ballot.

Sec. 11. If a ballot or any part of a ballot is protested, a ballot counter immediately shall write on the back of the protested ballot the word "counted" or "not counted", as appropriate.

Sec. 12. If the ballot counters cannot agree whether to count a ballot following a protest under section 10 of this chapter, the question shall be referred to the county election board for a decision.

Sec. 13. Following a decision by the ballot counters or the county election board, the ballot counters shall sign each protested ballot.

Sec. 14. A ballot counter may not count ballots for a precinct under this chapter while counting ballots for any other precinct.

Sec. 15. (a) This section applies if at least two (2) sets of ballot

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counters in a county are counting ballots under this chapter.

(b) A set of ballot counters may count ballots from a precinct while another set of ballot counters is counting ballots from another precinct in the county if each set of counters counts the ballots in compliance with section 5 of this chapter.

Sec. 16. (a) This section applies to the counting of write-in ballots for:

(1) a federal office received under 42 U.S.C. 1973ff; and

(2) a federal office, state office, or public question under IC 3-11-4-12(a).

(b) If a voter writes an abbreviation, a misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President and writes in the name of a candidate or political party that has not certified a list of electors under IC 3-10-4-5, the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

Sec. 17. (a) If proof is given to the ballot counters that a voter marked and forwarded a ballot but died before election day, the ballot of the deceased voter shall be rejected under section 7 of this chapter and retained with the other rejected ballots under section 8 of this chapter.

(b) The casting of a ballot by a deceased voter does not invalidate an election.

Sec. 18. When all the votes have been counted, the ballot counters shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question.

Sec. 19. The number of votes that each candidate and public question received shall be written in words and numbers. The ballot counters shall prepare a memorandum of the total votes cast for each candidate and on each public question and ensure that each member of the county election board receives a copy of the memorandum.

Sec. 20. The ballot counters shall deliver the certificates prepared under section 18 of this chapter and the tally papers to the county election board immediately upon the tabulation of the vote in each precinct.

Sec. 21. As soon as the ballots have been counted, the ballot

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counters shall in the presence of the county election board do the following:

(1) Place in a strong paper envelope or bag the following:

(A) All ballots, voted and not voted, together with all protested and uncounted ballots.

(B) One (1) copy of each of the certificates prepared under IC 3-11.5-4-1 and IC 3-11.5-4-8.

(C) The tally papers.

(2) Securely seal the envelope or bag.

(3) Have both ballot counters initial the envelope or bag.

(4) Plainly mark on the outside of the envelope or bag, in ink, the precinct for which the ballots were cast.

(5) Deliver the envelope or bag to the circuit court clerk.

(6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag.

Sec. 22. Upon delivery of the envelope or bag to the circuit court clerk, each ballot counter shall take and subscribe an oath before the clerk stating that the counter:

(1) securely kept the ballots and papers in the envelope or bag;

(2) did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots; and

(3) had no knowledge of any other person opening the envelope or bag.

Sec. 23. The circuit court clerk shall file the oath taken under section 22 of this chapter with the clerk's other election documents.

Sec. 24. The circuit court clerk shall place the envelope or bag in a receptacle provided by the county executive with two (2) different locks.

Sec. 25. The circuit court clerk shall do the following:

(1) Lock the receptacle provided under section 24 of this chapter.

(2) Retain one (1) key to one (1) lock of the receptacle.

(3) Give one (1) key to the other lock of the receptacle to the member of the county election board who is not a member of the same political party as the clerk.

Sec. 26. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 or IC 3-10-1-31.1.

Sec. 27. If the election is contested, the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During those periods the clerk shall keep the

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receptacle securely locked, subject only to an order of the court trying a contest.

Sec. 28. When permitted under IC 3-10-1-31 or IC 3-10-1-31.1, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

Sec. 29. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

(1) the ballots will be used by the state educational institution to conduct election research; and

(2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 or IC 3-10-1-31.1 has expired.

Sec. 30. (a) Immediately upon completion of the vote count, the ballot counters shall make and sign a certificate for the news media showing the total number of votes received by each candidate and on each public question in the precinct.

(b) The absentee ballot counters shall deliver the certificate to the circuit court clerk as soon as the certificate is completed. The circuit court clerk shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county immediately upon the completion of the certificate, but not before the closing of the polls.

Sec. 31. (a) This section applies to a person who observes or performs any of the following under this chapter:

(1) The counting of ballots.

(2) The proceedings of ballot counters or the county election board regarding a protested ballot.

(3) The preparation of a certificate by ballot counters.

(4) The delivery of a certificate to the circuit court clerk or county election board.

(b) Except as prescribed by this chapter, a person shall not provide any other person with information concerning the number of votes:

(1) a candidate received for an office; or

(2) cast to approve or reject a public question; on ballots counted under this chapter before the closing of the polls.

Chapter 10. Counting Paper Ballots.



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1 **Sec. 1. This chapter applies to counting paper ballots.**

2 **Sec. 2. Ballots shall be counted by laying each ballot upon a**
 3 **table in the order in which the ballot was opened.**

4 **Sec. 3. During the counting of the ballots, one (1) of the ballot**
 5 **counters shall read the name of the candidates voted for from the**
 6 **ballots. A:**

7 (1) member of the county election board who is not a member
 8 of the same political party as the ballot counter; or

9 (2) representative designated by the member;

10 reading the names shall view the ballots as the names are read.

11 **Chapter 11. Counting Ballots Cast on Ballot Cards**

12 **Sec. 1. This chapter applies to the counting of ballots cast on**
 13 **ballot cards.**

14 **Sec. 2. The ballot counters shall count the votes for each**
 15 **candidate for each office and on each public question in each**
 16 **precinct with the assistance of any persons required for the**
 17 **operation of the automatic tabulating machine.**

18 **Sec. 3. If a ballot is damaged or defective so that the ballot**
 19 **cannot properly be counted by an automatic tabulating machine,**
 20 **a remake team composed of one (1) individual from each of the**
 21 **major political parties of the county shall have the card prepared**
 22 **for processing so as to record accurately the intent of the voter**
 23 **insofar as the intent can be ascertained.**

24 **Sec. 4. If necessary, a true duplicate copy shall be made of the**
 25 **damaged ballot card in the presence of witnesses and substituted**
 26 **for the damaged card.**

27 **Sec. 5. A duplicate ballot card shall be made of a defective card,**
 28 **not including the uncounted votes.**

29 **Sec. 6. All duplicate cards must:**

30 (1) be clearly labeled "duplicate"; and

31 (2) bear a serial number that shall be recorded on the
 32 damaged or defective card.

33 **Sec. 7. Each duplicate ballot card shall be counted instead of the**
 34 **damaged or defective card.**

35 **Sec. 8. If a test of automatic tabulating machines is not**
 36 **conducted for a particular office or public question, the votes for**
 37 **that office shall be counted manually as provided in IC 3-11.3-9.**

38 **Sec. 9. If for any reason the county election board determines**
 39 **that it is impracticable to count all or some of the ballots under this**
 40 **chapter with an automatic tabulating machine, the board may**
 41 **direct that the ballot cards be counted manually.**

42 **Sec. 10. If ballot cards are counted manually, the tabulation of**

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votes must comply with the standards prescribed by IC 3-11.3-9.

Sec. 11. In addition to the certificates required by IC 3-11.3-9, ballot counters shall deliver the return printed by the automatic tabulating machine to the county election board immediately upon the tabulation of the vote in each precinct.

Sec. 12. In case of a recount, all ballot cards shall be recounted in the manner prescribed by this chapter unless:

(1) the court ordering the recount or the state recount commission directs that the ballots be counted manually; or

(2) a request for a manual recount is made under IC 3-12-6 or IC 3-12-11.

SECTION 31. IC 3-11.5-1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. This chapter expires January 1, 2012.**

SECTION 32. IC 3-11.5-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6. This chapter expires January 1, 2012.**

SECTION 33. IC 3-11.5-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6. This chapter expires January 1, 2012.**

SECTION 34. IC 3-11.5-3-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. This chapter expires January 1, 2012.**

SECTION 35. IC 3-11.5-4-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 29. This chapter expires January 1, 2012.**

SECTION 36. IC 3-11.5-5-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 30. This chapter expires January 1, 2012.**

SECTION 37. IC 3-11.5-6-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 34. This chapter expires January 1, 2012.**

SECTION 38. IC 3-11.5-7-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. This chapter expires January 1, 2012.**

SECTION 39. IC 3-11.7-1-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10. This chapter expires January 1, 2012.**

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SECTION 40. IC 3-11.7-2-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. This chapter expires January 1, 2012.**

SECTION 41. IC 3-11.7-3-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. This chapter expires January 1, 2012.**

SECTION 42. IC 3-11.7-4-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. This chapter expires January 1, 2012.**

SECTION 43. IC 3-11.7-5-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 30. This chapter expires January 1, 2012.**

SECTION 44. IC 3-11.7-6-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4. This chapter expires January 1, 2012.**

SECTION 45. IC 3-12-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 1.5. Auditing Election Results

Sec. 1. This chapter applies to an election in which ballots are counted other than by hand.

Sec. 2. As used in this chapter, "appropriate statistical sample" refers to a sample of ballots or precincts randomly chosen to produce a statistically significant result.

Sec. 3. (a) After each general election, the commission shall conduct an audit of the election.

(b) An audit conducted under this section must hand count an appropriate statistical sample of the paper ballots from the following in each county:

(1) If the year is a year in which an election for electors of President and Vice President of the United States is conducted, that election.

(2) At least one (1) election for a state office.

(c) A sample shall be chosen of each of the following for each county:

(1) All precincts within the county.

(2) All absentee ballots.

(3) All ballots cast at a vote center under IC 3-11-18.

Sec. 4. (a) The commission shall take any action:

(1) required by this chapter; and

(2) requiring statistical or sampling knowledge only after

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consultation with a panel designated under subsection (b).

(b) Each commission member may designate an individual who has a doctoral degree in statistics, or the equivalent of such a degree, to serve on a statistical advisory panel to assist the commission with decisions and analysis of data requiring knowledge of statistics.

Sec. 5. Upon completion of an audit required by this chapter, the commission shall issue an audit report that contains the commission's findings, including findings on the reliability of voting systems used in the election.

SECTION 46. IC 3-12-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17. This chapter expires January 1, 2012.**

SECTION 47. IC 3-12-3.5-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. This chapter expires January 1, 2012.**

SECTION 48. IC 3-14-2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 31. (a) This section applies only to an action described in this section done after December 31, 2011.**

(b) A person who knowingly or intentionally does any of the following commits a Class C felony:

- (1) Conspires with an individual for the purpose of encouraging the individual to vote illegally.**
- (2) Pays or offers to pay an individual to vote.**
- (3) Accepts the payment of any property for voting.**
- (4) Votes at an election when the person is not registered or authorized to vote.**
- (5) Votes in a precinct except the one in which the person is registered.**
- (6) Votes in an election in a name other than the person's own name.**
- (7) Having voted once at an election, votes again at the same election in the person's own name or any other name.**
- (8) Hires or solicits another person to vote as a voter of a precinct when the person hired or solicited is not a voter of the precinct.**
- (9) Does any of the following acting as an election officer or other public official upon whom a duty is imposed by this title:**
 - (A) allows a person to vote who is not entitled to vote; or**
 - (B) allows a person to vote by use of an unauthorized**

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- 1 procedure.
- 2 (10) Takes a ballot legally deposited out of a ballot box or out
- 3 of a voting system for the purpose of destroying the ballot or
- 4 substituting another ballot in its place.
- 5 (11) Destroys or misplaces a ballot with the intent to
- 6 substitute another ballot for it or with the intent to prevent
- 7 the ballot from being counted.
- 8 (12) As an election officer or other public official upon whom
- 9 a duty is imposed by this title marks or defaces a ballot for the
- 10 purpose of:
- 11 (A) identifying the ballot (except by numbering protested
- 12 ballots for future reference as provided by law); or
- 13 (B) voiding a ballot.
- 14 (13) As a ballot counter, does either of the following:
- 15 (A) causes the vote to be incorrectly taken down for a
- 16 candidate or public question; or
- 17 (B) makes a false statement, certificate, or return of any
- 18 kind of that vote.
- 19 (14) With intent to defraud does any of the following:
- 20 (A) Alters an election return.
- 21 (B) Destroys, misplaces, or loses a tally sheet.
- 22 (C) Alters the vote of a candidate or on a public question
- 23 as returned by the county election board or its employees.
- 24 (c) Notwithstanding IC 35-50-2-6(a), a person who is convicted
- 25 of a Class C felony under this section may, in addition to the term
- 26 of imprisonment established under IC 35-50-2-6(a), be fined not
- 27 more than one hundred twenty-five thousand dollars (\$125,000).
- 28 SECTION 49. [EFFECTIVE JULY 1, 2007] (a) As used in this
- 29 SECTION, "committee" refers to the vote by mail transition
- 30 advisory committee established by this SECTION.
- 31 (b) The vote by mail transition advisory committee is
- 32 established.
- 33 (c) The committee consists of the following:
- 34 (1) Two (2) members of the house of representatives
- 35 appointed by the speaker of the house of representatives.
- 36 (2) Two (2) members of the house of representatives
- 37 appointed by the minority leader of the house of
- 38 representatives.
- 39 (3) Two (2) members of the senate appointed by the president
- 40 pro tempore of the senate.
- 41 (4) Two (2) members of the senate appointed by the minority
- 42 leader of the senate.

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- 1 (5) One (1) circuit court clerk appointed by the speaker of the
- 2 house of representatives.
- 3 (6) One (1) circuit court clerk appointed by the minority
- 4 leader of the house of representatives.
- 5 (7) One (1) circuit court clerk appointed by the president pro
- 6 tempore of the senate.
- 7 (8) One circuit court clerk appointed by the minority leader
- 8 of the senate.
- 9 (d) The committee shall do the following:
- 10 (1) Study all issues relating to the transition from using
- 11 current voting systems to conducting all elections by mail-in
- 12 ballots.
- 13 (2) Assess the results of permitting voters to cast absentee
- 14 ballots without requiring voters to state a reason for casting
- 15 absentee ballots.
- 16 (3) Make recommendations for legislation to amend the
- 17 Indiana Code so that all elections after December 31, 2011,
- 18 are conducted by mail-in ballots
- 19 (e) The committee shall operate under the policies governing
- 20 study committees adopted by the legislative council.
- 21 (f) The affirmative votes of a majority of the voting members
- 22 appointed to the committee are required for the committee to take
- 23 action on any measure, including final reports.
- 24 (g) This SECTION expires January 1, 2011.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1808, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1808 as introduced.)

PIERCE, Chair

Committee Vote: yeas 7, nays 3.

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